

03. 20.09.2024
Court
No.238 (Tanmoy)

Allowed

CRM (NDPS) 1467 of 2024

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure, 1973/ Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023, in connection with **Chandipur** Police Station Case No. **226/2022**, dated **22.6.2022** under Sections **20(b)(ii)(C)/29** of the NDPS Act, 1985.

And

In the matter of: - **Mithilesh Yadav & Anr.**

...petitioners.

Mr. Uday Sankar Chattopadhyay
Mr. Pronay Basak

...for the petitioners.

Mr. Antarikhya Basu
Mr. Subhasish Datta

...for the State.

1. Learned lawyer for the petitioners contends petitioners are in custody for two years and three months. He submits there is inordinate delay in trial. The petitioners pray for bail.
2. Learned lawyer for the State opposes the bail prayer. He submits petitioners and co-accused were apprehended with 61.7 Kgs. of ganja.
3. We have considered the materials on record. Allegations involve recovery of ganja above commercial quantity. However, petitioners pray for bail on the ground of delay in trial. They are in custody for over two years and only two witnesses have been examined till date. Prosecution proposes to examine 20 witnesses in all. There is no possibility of the trial concluding in near future.

4. Under such circumstances, we are inclined to enlarge the petitioners on bail on the ground of inordinate delay in trial which has infracted their fundamental right to speedy trial under Article 21 of the Constitution of India. Bail prayer of the petitioners on this score is not fettered by the restrictions under Section 37 of the NDPS Act.
5. Accordingly, we direct the petitioners, namely, **1. Mithilesh Yadav, 2. Muniya Devi Yadav** shall be released on bail upon furnishing a bond of Rs.10,000/- (Rupees Ten Thousand) each with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Judge, Special Court under NDPS Act-cum-Additional District & Sessions Judge, Tamluk, Purba Medinipur, subject to condition that the petitioners shall appear before the trial court on each and every date of hearing until further orders and shall not intimidate witnesses and/or tamper with evidence in any manner whatsoever.
6. In the event petitioners fail to appear before the Trial Court without any justifiable cause, the Trial Court shall be at liberty to cancel the their bail without any further reference to this Court.
7. The application for bail is, thus, allowed and disposed of.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)